

**Testimony of Robert J. Garrity, Jr.
Deputy Assistant Director,
Records Management Division,
Federal Bureau of Investigation,
before the
House of Representatives
Committee on Science,
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Mr. Chairman and members of the Committee, thank you for inviting Assistant Director Hooton here today to testify in this hearing, in which the Committee is reviewing the conflict between science and security in visa policy. Unfortunately, Mr. Hooton could not be here today, so I have been designated to provide testimony in his stead. My name is Robert Garrity, and I have served as an FBI Special Agent since 1976. I currently serve as the Deputy Assistant Director of one of the FBI's newest divisions, the Records Management Division (RMD). My goal today is to discuss the FBI's role in vetting foreign visa applicants under the Visa Mantis program. First, I would like to say that the FBI appreciates the Committee's interest in this subject and hopes that the General Accounting Office (GAO) found us both cooperative and forthcoming in developing their report on *Improvements Needed to Reduce Time Taken to Adjudicate Visas for Science Students and Scholars*.

FBI Name Check Process

The FBI receives information on the applicants from the Department of State via computer disc, cable, or manual (facsimile) submissions. The requests are entered into the FBI's National Name Check Program (NNCP). The information is searched against the FBI Universal Indices (UNI). The searches seek all instances of the individual's name and approximate date of birth, whether a main file name or reference. By way of explanation, a main file name is that of an individual who is the subject of an FBI investigation, whereas a reference is someone whose name appears in an FBI investigation. References may be associates, witnesses, co-conspirators, or victims whose names have been indexed for later retrieval. The names are searched in a multitude of combinations, switching the order of first, last, middle names, as well as combinations with just the first and last, first and middle, *et cetera*. It also searches different phonetic spelling variations of the names, especially important considering that many names in our indices have been transliterated from a language other than English.

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If there is a match with a name in a FBI record, it is designated as a "Hit," meaning that the system has stopped on a possible match with the name being checked, but now a human being must review the file or index entry to further refine the names "Hit" upon. If the search develops a name and birth date match, it is designated an "Ident." An "Ident" is usually easier to resolve.

Approximately 85% of name checks are electronically returned to the Department of State as having "No Record" within 72 hours. A "No Record" indicates that the FBI's Central Records System contains no identifiable information regarding this individual. By agreement with the Department of State, partially due to our concern about the time factors in approving visa requests, a "No Record" equates to a "No Objection" to the issuance of a visa. The investigative divisions in the FBI, (i.e., the Counterterrorism Division, the Counterintelligence Division, the Criminal Investigative Division, and the Cyber Division) do not review visa requests where there is no record of the individual. Duplicate submissions (i.e., identically spelled names with identical dates of birth submitted within the last 120 days) are not checked and the duplicate findings are returned to State.

With the remaining 15% that were not immediately eliminated as a "No Record," because a name and birth date are not sufficient to positively correlate the file with an individual, additional review is required. A secondary manual name search usually identifies an additional 10% of the requests as also not being identical to an individual in our files, for a 95% overall "No Record" response rate. This is usually accomplished within a week of the request. The remaining 5% are identified as possibly being the subject of an FBI record. The FBI record must now be retrieved and reviewed. If the records were electronically uploaded into the FBI Automated Case Support (ACS) electronic record-keeping system, it can be viewed quickly. If not, the relevant information must be retrieved from the existing paper record. Review of this information will determine whether the information is identified with the subject of the request. If not, the request is closed as a "No Record."

The information in the file is reviewed for possible derogatory information. Less than 1% of the requests are identified with an individual with information that is derogatory or poses concern to the FBI about having access to sensitive or special U. S. technologies. These requests are forwarded to the appropriate FBI investigative division for further analysis. If the investigative division determines there is no objection to the visa request, the request is returned to the name check dissemination desk for forwarding to the Department of State. Results of the name check process are returned to the Department of State twice weekly by computer disc or telephonically in expedited requests.

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If there is an objection to the visa request, the investigative division will prepare a written Security Advisory Opinion and forward it separately to the Department of State. In instances where the investigative division determines it appropriate, that individual will be placed on a watch list. In reviewing these visa requests, the FBI has, in the past, identified individuals attempting to enter the United States who are of serious concern to the FBI.

I want to emphasize to you that the FBI is sensitive to the impact that delays in visa processing of students and scholars may have on business, education, foreign relations, and worldwide perceptions of the United States. With these considerations in mind, the FBI is working diligently with the Department of State toward the common goal of improving the expediency and efficiency of the visa clearance process. At the same time, the consequences of the FBI's mission on homeland security requires that our name check process be primarily focused on accurate and thorough results. This means that there are instances when the FBI's review of a visa request must require as much time as needed to obtain an unequivocally correct result.

Processing Times

The FBI's goal is to have all visa requests completed within 120 days. Attachment A illustrates the current status of how long it takes to complete Visas Mantis name checks. This status is current as of February 23, 2004. For Visas Mantis, the FBI received 1,522 requests in the month of January 2004 and by February 23 had resolved 1,334, or 88% of them. In the month of December 2003, the FBI received 1,446 Visas Mantis requests and by February 23 had resolved all but 130 of these requests for a 91% resolution rate. The percentages continue to rise over time, with 95% of Visas Mantis requests resolved within 90 days. Visas Mantis are particularly difficult to resolve due to the predominance of requests from China and the commonality of Asian names.

A common question we receive is, "How long does it take to complete a visa request name check?" As shown on the graph, 88% are completed in 30 days and 98% of the requests are resolved in 120 days. Most name check requests that are over 60 days old are the result of the time required to retrieve and review field office record information. Some delay occurs at substantive analysts' desks, but this is to be expected. These analysts are assigned to an investigative division and are primarily assigned to the analysis of intelligence reports from around the world in order to support on-going investigations, or to support the flow of intelligence to policy makers. Despite these significant and voluminous responsibilities, these are the best professionals to review information in our records and to then make an informed decision on whether a requester of a visa represents a threat to our homeland, or is interested in illegally acquiring

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targeted U. S. special technology. You will understand, however, that with the press of other business, the reviews of visa requests do not always achieve the analysts' highest priority in their assigned work. I would add, in response to one of the questions posed in the invitation to testify before this Committee, that the investigative divisions believe the information found in the Visas Mantis requests they review is of use in their other responsibilities.

FBI Visa Tracking System

The FBI's name check application accurately tracks each visa request within the our name check process. At any moment, we are able to electronically retrieve the status of an individual request, including where it is within the name check process, determine which requests have been pending for a certain period of time, identify the FBI files associated with an individual, ascertain the result of a name search, identify the type of visa request, and generate the data found in Attachment A. This tracking capability serves not only the 200,000 visa requests submitted each year, but also the other 6.1 million requests submitted by over 70 other federal, state, and local agencies.

Process Improvement

We are working together with the Department of State to ensure that all old visa requests are accounted for and processed. This is being accomplished through a systematic comparison between the FBI name checks and the Department of State's visa databases. We closely monitored student visa submissions for this school year and believe that we were able to meet this seasonal demand. We are using the National Academy of Sciences' data to assist us in monitoring our response time for both students and visiting scholars. We have a public inquiry system where we check the status of individual cases. This system has been helpful in identifying and resolving individual problems. We have not detected any systematic problems associated with our review process.

However, the FBI recognizes that the increase in numbers of requests necessitates the development of even more efficient processes in order to sustain the current pace of processing name check requests. We are in the process of implementing a number of interim improvements to minimize manual submissions by all agencies and increase efficiency within the name check process. In addition, the FBI has developed high-level functional requirements for a new name check application that would be compatible with these improvements. The new name check application is now undergoing review within the FBI's Information Technology Investment Management Process.

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Additionally, the FBI is participating in the development of the Department of State's new visa database. As the existing FBI name check system is a legacy system that serves numerous other agencies, the data from the new Department of State database must be translated before it can enter into the FBI's name check system. This is not an insurmountable obstacle. Current planning is focused on the optimum manner to move requests from the Department of State to the FBI. In the interim, the Department of State submits requests to the FBI from its new database by computer disc. This process is highly reliable and has improved processing times.

Decentralized Recordkeeping System

As I stated earlier, a significant factor in any delay in the FBI responding to a visa name check is retrieval of information from paper files. While many FBI files are available electronically, the majority of Visas Mantis checks pending over 60 days require review of physical, paper records currently stored at one of approximately 265 locations worldwide. FBI files are currently stored at FBI Headquarters, all 56 field offices, many of the larger of our 400 resident agencies, several warehouses around the country, in records centers operated either by the National Archives and Records Administration (NARA) or a commercial concern, four large Information Technology Center facilities on the east and west coast, and at Legal Attaché offices worldwide. Delays result from NNCP personnel identifying a file's location and then requesting the relevant information from a field office. Time delays mount as field office staff search file rooms and then fax or ship copies of the needed file or a prepared summary to FBI Headquarters. This process, repeated for many tasks, not only dilutes the FBI's responsiveness, but also limits information sharing, a critical success factor in protecting the security of our homeland and working counterintelligence and counterterrorism cases.

One possible solution to these problems the FBI is exploring is the establishment of a central records complex where all of our closed paper files would be located, and our active files stored electronically. Our frequently requested closed files could be scanned and uploaded into our electronic record-keeping system, so that Agents and analysts worldwide would have instant electronic access to the information they require for their jobs.

Conclusion

The FBI recognizes the importance of accurate and timely name check processing. I want to emphasize to you, this issue has the full attention of Director Mueller and Assistant Director Hooton. The FBI appreciates the interest of the

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Committee in this matter. To ensure the Committee's specific pre-testimonial questions have been answered, I have attached an addendum that discusses them directly. The FBI welcomes any further study by the GAO on this issue. I am prepared to answer any questions the Committee may have.

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Addendum - Responses to Questions

To ensure the Committee's specific pre-testimonial questions have been answered, they are recited here with the FBI answer:

Q. How are Visa Mantis requests currently transmitted from the State Department to the FBI and from the FBI to the State Department?

- A. The FBI receives Visas Mantis requests from the Department of State via computer disc, cable, or manual (facsimile) submissions. Results of the name check process are returned to the Department of State twice weekly by computer disc or telephonically in expedited requests.

Q. What is your internal process for tracking a Visas Mantis case? How often is that information available electronically? And how often must that file be located physically? What are your plans to fully automate this process? Have there been cases where a file has not been located and the applicant is still pending a response?

- A. The FBI's name check application accurately tracks each visa request within the our name check process. At any moment, we are able to electronically determine the status of an individual request, including where it is within the name check process, determine which requests have been pending for a certain period of time, identify the FBI files associated with an individual, ascertain the result of a name search, identify the type of visa request, and generate a status report. We do not keep track of how often a paper file must be located, as opposed to having the information in our electronic recordkeeping system. As stated in my testimony, each name check entails every combination of the first, middle, and last name, which means that records may be found responsive for each combination. In addition, often there is a combination of paper and electronic files for each name. So, with one name check there may be numerous files, both paper and electronic, on a combination of name variations. As our system cannot quantify these numbers for us, it is too large a task to manually count and I cannot state how many name checks have required paper files. However, on February 23 there were 203 names that were pending over 60 days. It would be safe to assume most of these name checks required review of paper files. While we intend to fully exploit information technology, the system will never be fully automated.

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Files and information must be reviewed by human beings, which cannot be automated.

Now, if the question is more appropriately, when will it be fully electronic or the paper records digitized, the answer depends on our success in building a new central records complex and relocating all closed files to that location where the files of interest can be scanned-on-demand by an agent or analyst. There have been instances where files have not been located, but by agreement with the State Department, the FBI may close a case administratively if there are no counterintelligence or counterterrorism files associated with the name.

Q. What priority do Visas Mantis investigations have among other FBI work? How do you think these waits impact your ability, and the ability of other law enforcement agencies, to identify and capture a terrorist as opposed to simply preventing him or her from entering the country at that particular post?

A. Within the NNCP, they are a very high priority together with other homeland security name checks. As stated, the NNCP can resolve 99% of the name checks, with only 1% of the names and related files having to be reviewed by an investigative division. Within the investigative divisions, review of these files is usually assigned to intelligence analysts. These analysts are primarily assigned to the analysis of intelligence reports from around the world in order to support on-going investigations, or to support the flow of intelligence to policy makers. Despite these significant and voluminous responsibilities, these are the best professionals to review information in our records and to then make an informed decision on whether a requester of a visa represents a threat to our homeland, or is interested in illegally acquiring targeted U. S. special technology. Despite the press of other business, the reviews of Visas Mantis requests by the investigative divisions generally are handled expeditiously.

As for the impact of these waits on the ability to identify and capture a terrorist as opposed to simply preventing him or her from entering the country, I am not sure that can be quantified. However, I can say that the investigative divisions believe the information found in the Visa Mantis requests they review is of use in their other responsibilities.

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Q. What steps are you taking to make [the] FBI's systems interoperable with the State Department, which recently invested about \$1 million to upgrade its technology for transmitting Visas Mantis requests? Until systems are interoperable, how will information be transmitted and what impact will it have on processing time?

A. The FBI is participating in the development of the Department of State's new visa database. Current planning is focused on the optimum manner to move requests from the Department of State to the FBI. In the interim, the Department of State submits requests to the FBI from its new database by computer disc. This process is highly reliable and has improved processing times.

Q. How satisfied are you about the appropriateness of the cases referred for additional review under Mantis? Are consular officers providing agents with enough information and the right type of information in their requests?

A. The name check process culls out 99% of the Visas Mantis submissions prior to review by the investigative divisions. The information they review is useful and is focused appropriately on sensitive technology.

Q. What steps have you taken to improve the visa application vetting process? In light of the fact that there have been lengthy waits and there are still Mantis cases that have been pending more than 60 days, what measures do you have underway that will identify and resolve these cases?

A. We are in the process of implementing a number of interim improvements to minimize manual submissions by all agencies and increase efficiency within the name check process. The FBI has developed high-level functional requirements for a new name check application that will be compatible with the new FBI information systems in development. These new information systems, over time, will eliminate dependence on the retrieval of paper files. The development of this new name check application is now undergoing review within the FBI's Information Technology Investment Management Process.